

FILED  
HARRISBURG, PAUNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

APR 29 2008

JAMES E. ANDREA, CLERK  
Per [Signature]  
Deputy Clerk

UNITED STATES OF AMERICA :

v. :

Criminal No.: 1:CR-01-195-06

HARVEY HOLLAND :

**MOTION FOR SIX YEARS CREDITED SPENT IN STATE CUSTODY  
TO APPLY TO FEDERAL SENTENCE UNDER §5G1.3(B)**

NOW COMES Harvey Holland appearing pro se citing Haines v. Kerner, 404 U.S. 519 (1972). Petitioner Holland contends that he should receive credit against his federal sentence for the time he had already spent in state custody.

**PROCEDURAL HISTORY**

While the petitioner was serving a term of imprisonment in state custody the federal authority indicted the defendant on January 4, 2002 with distribution and possession with intent to distribute fifty grams or more of crack cocaine and conspiracy to do the same. On or about June 6, 2002 following a jury trial the petitioner was found guilty on counts two and five, and on or about December 13, 2002 the petitioner was sentenced to concurrent terms of life imprisonment on the two counts of conviction all of this was while petitioner was still in state custody.

**ARGUMENT**

Subsequently while in state custody petitioner was indicted on federal charges because petitioner Holland was serving a term of imprisonment at the time of his federal sentence, he should of been subject to the provisions of U.S.S.G. 5G1.3 which governing the imposition of a sentence on a petitioner who is subject to an undischarged term of imprisonment.

Petitioner Holland also contends that he should receive credit against his federal sentence for the time he had already spent in state custody.

JURISDICTION OF THE COURT

In general a district court has broad discretion in choosing to sentence a defendant to an undischarged sentence of imprisonment the court generally has authority to impose an imprisonment sentence on the current offense to run concurrently with or consecutively to the prior undischarged term. See 18 U.S.C. §3584(a) exercise of that authority. However is predicated on the court's consideration of the factors listed in 18 U.S.C. §3553(a) including any applicable guidelines or policy statements issued by the Sentencing Commission.

CONCLUSION

For the foregoing reasons petitioner Holland hope and prays that the district court order that the petitioner receive credit against his federal sentence for the time he had already spent in state custody.

DATED: April 21, 2008

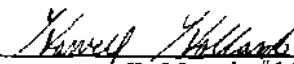
Harvey Holland  
Harvey Holland

CERTIFICATE OF SERVICE

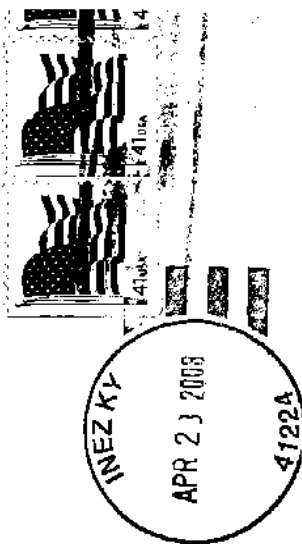
I hereby certify that a true and correct copy of the above and foregoing  
has been served via mail this \_\_\_\_ day of May 2008 upon

William Behe, AUSA  
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Harrisburg, PA 17101

Respectfully submitted,

  
\_\_\_\_\_  
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